
	GAITHERSBURG POLICE DEPARTMENT		
	Internal Affairs		
	GENERAL ORDER 209.1	Related CALEA Standards: 52.1.1, 52.1.2, 52.1.3, 52.1.4, 52.1.5, 52.2.1, 52.2.2, 52.2.3, 52.2.4, 52.2.5, 52.2.6, 52.2.8	
Effective Date 09/28/2016			
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I. PURPOSE

The purpose of the Department's internal affairs function is to ensure that the integrity of the Department is maintained through an internal system in which objectivity, fairness and justice are ensured through impartial investigation and review of all complaints made against the Department or any of its personnel.

II. POLICY

The Department's internal affairs function operates at the direction of the Chief of Police and any department member assigned to the internal affairs function shall report directly to the Chief of Police. All investigations shall be conducted in accordance with the provisions of the Law Enforcement Officers' Bill of Rights, Maryland Public Safety Article § 3 Subtitle 1 (LEOBR).

Requests by officers to expunge internal affairs records are honored in accordance with the provisions of the LEOBR.

The Department will investigate all complaints received to include anonymous.

III. DEFINITIONS

A. Employees

Within the context of this directive, the term "employee" includes both sworn and civilian members of the Gaithersburg Police Department.

B. Complaint

Within the context of this directive, the term "complaint" refers to any communication that alleges action or inaction on the part of a police department employee that, if true, would constitute a violation of established rules and regulations. In every instance where an allegation, if proven factual, would constitute misconduct, the complaint will be processed in accordance with this directive.

IV. PROCEDURE

A. General Provisions

1. Responsibilities of the internal affairs function include:
 - a. Recording, registering and controlling investigations of complaints against personnel;
 - b. Supervising and controlling the investigation of alleged or suspected misconduct within the Department;
 - c. Maintaining the confidentiality of internal affairs investigations and records; and
 - d. Ensuring that internal investigations are conducted in a manner consistent with the provisions of the LEOBR.
2. The internal affairs function maintains a record of all complaints against the Department or its personnel.
 - a. To protect confidentiality, such records are maintained in a secure file, separate from any of the Department's other records.
 - b. All records shall be maintained in accordance with the provisions of the LEOBR.

B. Complaint Processing

1. Information describing the complaint process is made available to the public on the Department's complaint forms and the Department's website.
2. When any agency employee is contacted by an individual for the purposes of complaining about an employee's actions or inactions, the employee shall obtain from the complainant his or her name, contact information, date and time of the encounter and the name of all involved employees.
 - a. The employee shall then notify a police supervisor who will respond to meet with, or contact the complainant without delay.
3. The responding supervisor will first interview the complainant and record all relevant information on a Complaint Against Personnel Form (GPD Form 176).
 - a. If the complainant has not prepared a written statement, the supervisor will provide a complaint form to the

complainant and request that it be completed.

- b. If the complainant has a written statement to provide, or elects to complete the complaint form in the presence of the supervisor, the supervisor shall read the complaint and continue the interview as may be appropriate.
4. For complaints received by mail or email, upon receipt of the complaint, the complainant will be informed, by the most practical means, of the Department's receipt of the complaint.
 - a. The supervisor will prepare a memorandum to the Chief of Police detailing the version of events as provided by the complainant.
5. The GPD 176, and all written materials, will be forwarded without delay to the Chief of Police, with courtesy copies provided to all others in the involved employee's chain of command.
6. The Chief of Police will be notified immediately, via the chain of command, of complaints that allege any of the following:
 - a. Corruption;
 - b. Brutality;
 - c. Unnecessary use of force;
 - d. Breach of civil rights; or
 - e. Criminal misconduct.
7. Complaints Alleging Brutality or Excessive Force: Must be signed and sworn to under the penalty of perjury.
 - a. Brutality or excessive force complaints may be made by:
 - i. The aggrieved individual;
 - ii. Family member of the aggrieved individual;
 - iii. Any person present at the alleged incident;
 - iv. Someone who has a video recording of the incident, that to the individual's knowledge, is unaltered; or

- v. The parent of a minor child;
 - b. Must be filed within 366 days of the incident; and
 - c. The complainant will be provided with a Form GPD 175B – Complaint of Brutality.
- 8. For all other non-brutality related complaints, the complainant will be provided with a Form GPD 175A - Complaint Form.
- 9. If the Chief of Police is unavailable or cannot be reached, the senior ranking officer will contact the Acting Chief of Police.
- 10. The Chief of Police will determine whether the complaint, taken as true, establishes a violation of established rules and regulations.
 - a. If so, the Chief will assign an IA tracking number to the GPD 176 (Complaint Against Personnel Report), direct a PEWS entry be initiated and assign the complaint for investigation.
- 11. If the complaint is assigned out for investigation, the investigator will periodically contact the complainant to provide updates concerning the status of the investigation and for additional information or clarification when necessary. The contact shall be documented.
- 12. The complainant will be informed of the final disposition of the complaint and any discipline imposed as a result at the conclusion of the investigation.

C. Complaints not Requiring Internal Affairs Investigation

- 1. The Department's supervisory personnel are trained in the investigation and handling of complaints. Unless the Chief of Police determines that an internal affairs investigation is necessary, complaints of a minor nature may be investigated by supervisors, as enumerated herein or as assigned by an officer of higher rank, after receiving approval from the Chief of Police.
- 2. In those instances where the allegation of misconduct is a Category "A" offense and the Chief of Police reasonably believes that if proven factual would be disposed of through non-disciplinary action the Complaint Against Personnel report and all related documents will be retained by the immediate supervisor after the disposition for the duration of the performance evaluation period.

3. Shift supervisors will be given formal direction on the internal affairs function at the shift level and criteria for personnel early warning system.
4. Supervisors investigating or handling complaints will coordinate their efforts with the internal affairs function when guidance or assistance is necessary. Complaints will be reviewed at every stage by the internal affairs function.
5. If a supervisor investigating or handling a complaint determines that it is more serious than originally believed, or of a magnitude beyond the investigative capacity of the supervisor, the internal affairs function shall be immediately consulted for guidance.

D. Complaints Requiring Internal Affairs Investigation

1. As directed by the Chief of Police or designee, an internal affairs investigation will be conducted by an internal affairs investigator or a supervisor, pursuant to the provisions of the LEOBR, if:
 - a. A complaint is made against an officer; and
 - b. The Department intends to take disciplinary action if the investigation results in a sustained allegation.
2. At the direction of the Chief of Police or designee, the Department investigates, or may request assistance from an appropriate outside agency with the investigation of, complaints that include:
 - a. Violation of law or policy;
 - b. Allegations of corruption;
 - c. Brutality or excessive force;
 - d. Civil rights violations;
 - e. Potential policy or training failure;
 - f. Discharge of a firearm by an officer, whether or not injury or death is involved (except for exclusions in General Order 600.4 - Weapons); and
 - g. Any other complaint or information of which the Chief of Police is made aware and directs that an investigation be conducted.

E. Notification to Employee

1. In accordance with the LEOBR, when an officer is notified that he or she is the subject of an internal investigation, the investigator shall issue the officer a written statement of the allegations and his or her rights and responsibilities, relative to the investigation, on an Internal Investigation Notification (GPD Form 242).
2. Civilian employees are notified of being the subject of an internal investigation in the same manner as sworn employees.
3. When an officer is notified that he or she is the subject of an internal investigation and provided with a copy of the GPD Form 242, the officer will be advised of the following information, via the form:
 - a. That the employee is the subject of an internal investigation;
 - b. A statement of the allegations and nature of the investigation;
 - c. The name, rank and assignment of the officer in charge of the investigation;
 - d. The advisement that an officer under investigation has the right to have an attorney or other responsible representative of his or her choice present during any interrogation; and
 - e. That the investigation and/or interrogation shall be conducted:
 - i. Any interrogation of an officer shall be suspended for a period not exceeding five business days until representation is obtained;
 - a) Within that five business day period, the Chief of Police, for good cause shown, may extend the period for obtaining representation.
 - ii. At a reasonable hour, at or near the officer's duty location, preferably when the officer is on duty, unless the seriousness of the investigation is of such a nature that an immediate interrogation is required;
 - iii. In such a manner that questions directed to the

officer under investigation shall be asked by and through one investigator;

- iv. So that the names of all witnesses are provided to the officer under investigation, prior to an interrogation relative to brutality complaints;
- v. In such a manner that the interrogating session runs for reasonable periods and shall be timed to allow for personal necessities and rest periods as are reasonably necessary;
- vi. In a way that the officer being interrogated is not threatened with transfer, dismissal, or disciplinary action; and
- vii. Such that a complete record, either written, taped, or transcribed, is kept of the complete interrogation of the officer, including all recess periods and a copy of said record shall be available to the officer or his or her counsel upon request, not less than ten (10) days before any hearing board.

F. Investigation

1. The impact of an Internal Affairs investigation on the integrity of the Department and on employee morale necessitates a speedy resolution to such issues. However, because justice is not served unless a thorough and fair investigation is conducted, the Department has established a 45 day time limit for completing internal affairs investigations. Exceptions to the 45 day limit include:
 - a. Unresolved court proceedings;
 - b. Extenuating circumstances beyond the investigator's control; or
 - c. Good cause as determined by the Chief of Police.
2. If deemed appropriate by the Chief of Police, an allied law enforcement agency may be requested to assist with an investigation or to conduct it entirely.
3. Pursuant to the terms and conditions enumerated in agreements between this Department and allied agencies, whenever a

complaint is made against a member of this Department and a member of another agency arising from the same incident, this Department will investigate the actions of its officer and the outside agency will investigate the actions of their officer.

4. Identification photos of all Department members are maintained as part of their employment. These photos may be used in conjunction with a photo array or photo lineup during the course of an internal investigation, if approved by the Chief of Police.
5. An employee may be required to participate in a "line-up" if this action is material to a particular Department internal investigation, and is conducted at the direction of the Chief of Police.
6. Whistleblower Protection: The Department and its employees are prohibited against retaliation against an officer that:
 - a. Exercises his or her LEOBR rights;
 - b. Exercises his or her constitutional rights; or
 - c. Provides the disclosure of gross mismanagement, waste of resources, substantial danger to public safety, or violation of law committed by another officer.

G. Conclusion of Fact

1. Upon completion of an internal investigation, the complaint will be classified accordingly using the following terminology:
 - a. Sustained: The allegation is supported by sufficient evidence;
 - b. Not Sustained: There is insufficient evidence to prove or disprove the allegation;
 - c. Exonerated: The incident complained about occurred, but was lawful, proper and consistent with Department policy;
 - d. Unfounded: The allegation is false or not factual;
 - e. Policy Failure: The employee acted in accordance with Department policy, but the investigation has revealed the necessity to revise policy and retrain affected personnel on such policy;

- f. Training Failure: The employee acted in accordance with the manner in which he or she was trained but the investigation revealed a necessity to revise the training.
- 2. The Department publishes statistical summaries based on the records of internal affairs investigations, for dissemination to the public and Department employees as part of the annual report. The statistical summary contains the number of complaints received and investigated, the nature of the allegation and the results of the investigation.
 - a. A copy of the printed report is placed on the roll call clipboard; and
 - b. An electronic copy of the report is made available through a link on the Police Department's web page.
- 3. The Department shall annually report to the Maryland Police Training and Standards Commission (MPTSC) the following data:
 - a. The number of serious officer-involved incidents;
 - b. The number of officers disciplined; and
 - c. The type of discipline administered to each officer disciplined.

H. Expungements

- 1. According to the provisions of the LEOBR, a law enforcement officer may have expunged from any file the record of a formal complaint made against the law enforcement officer if at least three (3) years have passed since the final disposition by the law enforcement agency or hearing board, and
 - a. A hearing board acquitted the law enforcement officer, dismissed the action, or made a finding of not guilty; or
 - b. The law enforcement agency that investigated the complaint:
 - i. Exonerated the law enforcement officer of all charges in the complaint; or
 - ii. Determined that the charges were unsustained or unfounded.

2. Internal affairs record expungement requests must be submitted in a written memorandum to the Chief of Police, via chain of command.
3. If the statutory requirements for expungement have not been met, the Chief of Police shall ensure that the requesting officer is notified in writing of the reasons why an expungement could not be accomplished.
4. If the statutory requirements for expungement have been met, the Chief of Police will ensure that the file is expunged and that the officer submitting the request is notified in writing of the expungement.
5. The method of destruction will be by shredding, unless another means of destroying the record is deemed more appropriate.
6. Records will not be shredded or destroyed if the file contains the names of two (2) or more accused officers and charges against any of this Department's officers were sustained. In such an instance, reference to officers who have met the statutory requirements for expungement will be redacted.
7. Any entries in a log or data base pertaining to said officers will be obliterated or deleted.